

REMARKS

In the Office Action¹ mailed November 9, 2009, the Examiner took the following actions:

- (i) rejected claims 12-17, 20-30, and 34-39 under 35 U.S.C. § 103(a) as unpatentable over "How to get the most out of COMPUSERVE" to *Bowen* in view of a net.chess posting to *Fontecilla*;
- (ii) rejected claims 18, 31, 32, 43-48, and 50-54 under 35 U.S.C. § 103(a) as unpatentable over *Bowen* and *Fontecilla* in view of "The Effect of Categorization on Preferences for Popular Music Styles" to *Brittin*; and
- (ii) rejected claims 19 and 33 under 35 U.S.C. § 103(a) as unpatentable over *Bowen* and *Fontecilla* in view of U.S. Patent No. 4,987,492 to *Stults*.

By the above amendments, Applicants amend claims 12-14, 18-22, 24-28, 31-35, 38, 43-48, and 50-54, and cancel claim 17 without prejudice or disclaimer. Claims 12-16, 18-39, 43-48, and 50-54 are pending in this application.

I. Interview of January 6, 2010

Applicants thank Examiners Duffy and Vo for the courtesies extended to Applicants' representative during the telephonic interview of January 6, 2010. During the interview, Applicants' representative explained certain distinguishing features of the claims. Examiners Duffy and Vo provided several suggestions to clarify the claimed features, and further indicated that amendments consistent with the Examiners' suggestions would likely lead to an allowance. However, no formal agreement was reached.

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

By this amendment, Applicants amend the claims consistent with the Examiners' suggestions. To the extent that the Examiners do not agree that the amendments presented herein place this application in condition for allowance, Applicants respectfully request the Examiners to contact the undersigned to resolve any remaining issues by supplemental or Examiner's amendment.

II. Rejection of Claims 12-17, 20-30, and 34-39 under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 12-17, 20-30, and 34-39 under 35 U.S.C. § 103(a) as being unpatentable over *Bowen* in view of *Fontecilla*. A *prima facie* case of obviousness has not been established.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. See *M.P.E.P.* § 2142, 8th Ed., Rev. 6 (Sept. 2007). "A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention." *M.P.E.P.* § 2145. Furthermore, "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" at the time the invention was made. *M.P.E.P.* § 2143.01(III), internal citation omitted (emphasis in original). Moreover, "[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." *M.P.E.P.* § 2141.02(I), internal citations omitted (emphasis in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. § 103(a) is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966) The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the difference between the claimed invention and the prior art.” *M.P.E.P. § 2141(II)*. “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” *M.P.E.P. § 2141(III)*.

Independent claim 12 recites a computer-implemented method of creating a player profile for interacting on a computer network, comprising, among other things, “receiving, by the first computer, selections by a first user of a first one of the skill levels for the first video game and a second one of the skill levels for the second video game ... [and] transmitting the profile data over the computer network for access by a second computer the second computer being used for multiplayer gaming with the first computer, thereby providing a second user at the second computer with an indication of skill of the first user for the first video game relative to the second video game” (emphasis added). *Bowen* and *Fontecilla* do not teach or suggest at least these features of claim 1.

Bowen discloses a “CB” application where users may create profiles including information such as a CB handle, user ID, birth date, age, occupation, and interests (*Bowen*, pages 94-95). *Bowen* also discloses forums where members can place information about themselves, such as interests, in a membership log, and users can search by member ID’s and interests to find other users. (*Bowen*, pages 207-209). In

addition, *Bowen* discloses a “Studio Lobby Signboard” that allows users to create and read personal bios, and comment on multiplayer games. (*Bowen*, page 381).

The Office Action alleges that the above-identified portions of *Bowen* disclose certain features of claim 12. (Office Action, pages 2-3). However, the Office Action concedes that *Bowen* does not disclose an “interface [that] enables user determination of the skill of a first user for a first identified video game relative to a second video game or players identifying skill and interest levels in said games.” (Office Action, page 3). Accordingly, as conceded in the Office Action and during the interview, *Bowen* also does not teach or suggest “receiving, by the first computer, selections by a first user of a first one of the skill levels for the first video game and a second one of the skill levels for the second video game ... [and] transmitting the profile data over the computer network for access by a second computer the second computer being used for multiplayer gaming with the first computer, thereby providing a second user at the second computer with an indication of skill of the first user for the first video game relative to the second video game,” as recited by independent claim 12 (emphases added).

Fontecilla discloses a “Google group” entitled “.net.chess” where a user named “Rodrigo Fontecilla” posts that they have a USCF (United States Chess Federation) rating of 2100, and would like to play chess with individuals rated over 2000. (*Fontecilla*, page 1). The Office Action alleges that *Fontecilla* discloses a “skill level indication” and “expresses an interest in playing with others.” (Office Action, page 3). However, even assuming this is correct (a position Applicants do not concede), *Fontecilla* does not disclose or suggest a skill level for a video game. Furthermore, at best, *Fontecilla* discloses only a single game, e.g., chess, and does not disclose or

suggest skill levels for both a first and a second video game. Moreover, as *Fontecilla* discloses only a single game, *Fontecilla* necessarily fails to teach or suggest an indication of a skill at a first game relative to a second game. Accordingly, as conceded by the Examiner during the interview, *Fontecilla* does not teach or suggest “receiving, by the first computer, selections by a first user of a first one of the skill levels for the first video game and a second one of the skill levels for the second video game ... [and] transmitting the profile data over the computer network for access by a second computer the second computer being used for multiplayer gaming with the first computer, thereby providing a second user at the second computer with an indication of skill of the first user for the first video game relative to the second video game” as recited by independent claim 12 (emphasis added).

For at least the above reasons, the Office Action has not established a *prima facie* case of obviousness of claim 12. Thus, the rejection of claim 12 under 35 U.S.C. § 103(a) should be withdrawn.

Independent claim 27 also recites features that are neither disclosed nor suggested by the asserted references. For example, amended claim 27 is directed to a computer-implemented method that includes, among other things, “displaying to a first user, on a first computer, an interface that includes profile information of a second user for a plurality of video games, the profile information included in the interface reflecting a skill level of the second user for a first video game relative to a second video game, the first and second identified video games being among the plurality of video games.” *Bowen* and *Fontecilla* do not disclose or even suggest at least these features and, accordingly, claim 27 is allowable over the prior art of record for at least these reasons.

Dependent claims 13-17, 20-26, 28-30, and 34-39 are also allowable over *Bowen* and *Fontecilla* at least due to their dependence from one of independent claims 12 and 27.

III. Rejection of Claims 18, 31, 32, 43-48, and 50-54 under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 18, 31, 32, 43-48, and 50-54 under 35 U.S.C. § 103(a) as being unpatentable in view of *Bowen*, *Fontecilla*, and *Brittin*. A *prima facie* case of obviousness has not been established with respect to these claims.

Brittin discloses the effect of stylistic categorization on preferences for music styles. (*Brittin*, page ii). *Brittin* further discloses that the preferences are reflected by preference ratings on a ten point Likert-type scale describing likability for musical excerpts from styles such as jazz and pop. (*Brittin*, page 72). However, *Brittin* does not disclose or suggest preferences for video games. Furthermore, *Brittin*'s Likert-type scale reflects "likeability" of the music excerpts, and not skill levels for the music excerpts.

Accordingly, as conceded by the Examiner during the interview, *Brittin* does not teach or suggest "receiving, by the first computer, selections by a first user of a first one of the skill levels for the first video game and a second one of the skill levels for the second video game ... [and] transmitting the profile data over the computer network for access by a second computer the second computer being used for multiplayer gaming with the first computer, thereby providing a second user at the second computer with an indication of skill of the first user for the first video game relative to the second video game," as recited by independent claim 12 (emphases added) or the similar recitations of independent claims 27, 43, and 50.

For at least the above reasons, independent claims 12, 27, 43, and 50 and their respective dependent claims are distinguishable from the cited references. Accordingly, no *prima facie* case of obviousness has been established and the rejection of claims 18, 31, 32, 43-48, and 50-54 under 35 U.S.C. § 103(a) should be withdrawn.

IV. Rejection of Claims 19 and 33 under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 19 and 33 under 35 U.S.C. § 103(a) as being unpatentable in view of *Bowen*, *Fontecilla*, and *Stults*. A *prima facie* case of obviousness has not been established with respect to these claims.

Claims 19 and 33 each depend from one of independent claims 12 and 27, and are distinguishable from *Bowen* and *Fontecilla* at least due to their dependence. Furthermore, *Stults* fails to cure the above-noted deficiencies of *Bowen* and *Fontecilla*.

Stults discloses representing switch connections in a communication network so that a user can request switch request signals based on the state of the connections. (*Stults*, Abstract). The Office Action alleges that *Stults* discloses “an audio/video communication system ... where visages are used to represent users of a particular computer.” (Office Action, page 9). However, even assuming the Office Action is correct (a position Applicants do not concede), *Stults* still does not teach or suggest “receiving, by the first computer, selections by a first user of a first one of the skill levels for the first video game and a second one of the skill levels for the second video game ... [and] transmitting the profile data over the computer network for access by a second computer the second computer being used for multiplayer gaming with the first computer, thereby providing a second user at the second computer with an indication of skill of the first user for the first video game relative to the second video game” as

recited by independent claim 12 (emphases added), or the similar recitations of independent claim 27. Moreover, during the interview, the Examiners conceded that *Stults* fails to disclose such features.

For the reasons discussed above, claims 19 and 33 are distinguishable from the cited references. Accordingly, no *prima facie* case of obviousness has been established with respect to claims 19 and 33, and the rejection of these claims under 35 U.S.C. § 103(a) should be withdrawn.

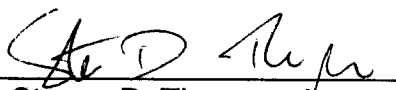
CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of all pending claims. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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